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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,817	03/18/2004	Richard T. Ryan	DWE/Ryan	5898
32834	7590	12/19/2005	EXAMINER	
D.W. EGGINS 18 DOWNSVIEW DRIVE BARRIE, ON L4M 4P8 CANADA			HUYNH, KHOA D	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/802,817

Applicant(s)

RYAN, RICHARD T.

Examiner

Khoa D. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-11 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

the water access fixture, the light assembly portion and the housing as recited in claim 1;

the electrical access conduit extending along a portion of the length of the fixture as recited in claim 3;

the light assembly housing...having a diameter/depth ratio greater than two as recited in claim 4;

the light emitting diodes...consisting of red green and blue as recited in claim 5;

the water access fixture, the externally threaded pipe portion, the locking nut, the light assembly portion and the housing as recited in claim 7;

the attachment means as recited in claim 8;

the free length of the power cord as recited in claim 10.

### ***Claim Objections***

2. Claim 3 is objected to because of the following informalities: claim 3 should be changed to have only a single period at the end of the claim. Appropriate correction is suggested.

3. Claim 9 is objected to because of the following informalities: claim 9 should be changed to have only a single period at the end of the claim. Appropriate correction is suggested.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 4, 5 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 4 calls for "the light assembly housing is a shallow depth, having a diameter/depth ratio greater than two". Such claim subject matter, however, was not described in the original specification. Since such recitation is not supported by the written description, such recitation constitutes new matter.

Regarding claim 5 calls for a list of color LED. However, the recited color LED does not have supports in the written disclosure. Therefore, claim 5 is not commensurate with the written disclosure. And since such claimed subject matter is not supported by the written description, such claimed subject matter constitutes new matter.

Claim 10 calls for "the free length of the cord located within the housing". Such claim subject matter, however, was not described in the original specification. Since such recitation is not supported by the written description, such recitation constitutes new matter.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "said light assembly housing" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 3, 6, 7 and 11 (as presently understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Vajda et al. (5207499).

Regarding claims 1 and 6, the Vajda et al. reference discloses a lighting apparatus for a pool having a water circulation system. The apparatus includes a water access fixture (at 5, 90, 95 in Fig. 1) for installation through an aperture in a wall of the pool (Fig. 1). The access fixture includes a light assembly portion (at

10) integrally connected in adjacent relation with the access fixture. The lighting assembly portion includes a housing (about 30) with a translucent cover (40). A power supply means (about 75) connecting with the light assembly portion and extending through the access fixture for connection to an externally located low-voltage power source.

Regarding claim 3, the water access fixture includes an electrical access conduit (80,60) extending along a portion of the length of the fixture.

Regarding claim 7, the Vajda et al. reference discloses a lighting apparatus for a pool having a water circulation system. The apparatus includes a water access fixture (at 5, 90, 95 in Fig. 1) for installation through an aperture in a wall of the pool (Fig. 1). The apparatus includes an externally threaded pipe portion (at 90,95) with a locking nut (at 20) in threaded engagement thereon for securing the access fixture to the pool. The access fixture includes a light assembly portion (at 10) integrally connected in adjacent relation with the access fixture. The lighting assembly portion includes a housing (about 30) with a translucent cover (40). A power supply means (about 75) connecting with the light assembly portion and extending through the access fixture for connection to an externally located low-voltage power source.

Regarding claim 11, as schematically shown in Figure 1, the integrally connected water access fixture portion and the light assembly portion having a smooth, outwardly convex outer surface in use to afford flush fitting relation with the interior of the pool.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2, 4, 5 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vajda et al. (as discussed supra) in view of Ruthenberg (6184628).

Regarding claims 2 and 5, the Vajda et al. reference DIFFERS in that it does not specifically include a substantially planar array of LEDs as claimed. Attention, however, is directed to the Ruthenberg reference which discloses another lighting apparatus for use in a pool. The lighting apparatus includes a multicolor (red, green and blue), planar array of LEDs (10) with a stem portion (30) adapted to engage a conventional lamp socket (34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Vajda et al. reference by employing a multicolor, planar array of LEDs, in view of the teaching of Ruthenberg, to provide a light source that (a) produces less heat than an incandescent light bulb, (b) is last longer than an incandescent light bulb and (c) is capable of producing various light effects.

Regarding claim 4, even though the Vajda et al. reference does not specifically disclose that the housing having a diameter/depth greater than two as claimed, it, however, would have been obvious to one of ordinary skill in the art at

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the time the invention was made to have employ such ratio for the diameter/depth of the housing since discovering an optimum value for a ratio of a diameter/depth of the housing as a result effective variable involves only routine skill in the art.

Regarding claim 8, the Vajda et al. reference DIFFERS in that it does not specifically include a plurality of LEDs as claimed. Attention, however, is directed to the Ruthenberg reference which discloses another lighting apparatus for use in a pool. The lighting apparatus includes a multicolor (red, green and blue), planar array of LEDs (10) with a stem portion (30) adapted to engage a conventional lamp socket (34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Vajda et al. reference by employing a multicolor, planar array of LEDs, in view of the teaching of Ruthenberg, to provide a light source that (a) produces less heat than an incandescent light bulb, (b) is last longer than an incandescent light bulb and (c) is capable of producing various light effects. The Ruthenberg reference also discloses attachment means (32,60,62) securing the LED array in releasably secured relation with the light assembly housing.

Regarding claim 9, the attachment means, as disclosed by Ruthenberg, further includes a rib (60) and detent (32) in mutually engaging relation located diametrically opposite a removable screw (62) securing the LEDs array to the housing.



Regarding claim 10, the power supply means (about 75 in Vajda et al.) including a power supply cord including a free length (the cord extending from the element 70 to element 75) connecting the light assembly with the external power source.

### ***Conclusion***

12.. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Love, Sullivan et al., Mueller et al., Macey et al., and Archer et al. were cited to show a pool light system having a planar array of LEDs.

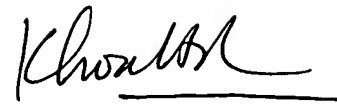
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Khoa D. Huynh', with a horizontal line underneath.

Khoa D. Huynh  
Primary Examiner  
Art Unit 3751

HK  
12/07/2005